

**IN THE HIGH COURT AT CALCUTTA
CIRCUIT BENCH AT JALPAIGURI
APPELLATE SIDE**

03.03.2023.
17/tkm

C.R.M. (DB) 128 of 2023

In Re : An application for bail under section 439 of the Code of Criminal Procedure in connection with Bhaktinagar P.S case no. 894 of 2016 dated 17.6.2016 under sections 493/376/313/420 IPC

and

Allowed

In Re : Dipankar Barua

..... petitioner

Mr. S Mukherjee
Ms. Oshmita Mukherjee
Mr. D Kundu

..... for the petitioner

Mr. A S Chakraborty
Mr. Ujjwal Luksom
Mr. Sagnik Sankar Sikdar

..... for the State

Mr. Biswarup Roy

..... for the de facto

Petitioner is in custody for 40 days. It is submitted there was consensual relationship between the parties. He prays for bail.

Learned lawyer for the State opposes the bail prayer. He submits petitioner had sought pre-arrest bail and Co-ordinate Bench of this Court had observed that the petitioner would take steps to re-convey the land to the victim's family. He did not do so. On the other hand, he absconded. Subsequently, he has been arrested. Due to the close relationship, victim became pregnant and had aborted.

We have considered the materials on record. Victim lady was major at the time of cohabitation. Allegations in the FIR also admit a close and intimate relationship between the

parties. In this backdrop, whether the allegation would constitute rape requires to be adjudicate during trial. With regard to conveyance of property, we are of the opinion recovery of land may not fall within the domain of criminal investigation. Petitioner is already in custody for 40 days and purpose of investigation do not justify further detention.

Under such circumstances, we are inclined to grant bail to the petitioner.

Accordingly, the petitioner be released on bail upon furnishing a bond of Rs.10,000/- with two sureties of like amount each, one of whom must be local to the satisfaction of the CJM, Jalpaiguri on condition that the petitioner shall appear before the trial court on every date of hearing and shall not intimidate witnesses or tamper with evidence in any manner whatsoever.

In the event he fails to appear before the trial court without justifiable cause, the trial court shall be at liberty to cancel his bail automatically without reference to this court.

The application being CRM (DB) 128 of 2023 is disposed of.

(Subhendu Samanta,J.)

(Joymalya Bagchi, J.)